

Memorandum of Understanding
Regarding Initial Allocation Formula
ACT River Basin

WHEREAS, the States of Alabama and Georgia, along with the United States of America, are signatories to that certain Alabama-Coosa-Tallapoosa River Basin Compact, Pub. L. 105-105 (the "ACT Compact");

WHEREAS, the ACT Compact authorizes the States of Alabama and Georgia to develop an allocation formula for equitably apportioning the surface waters of the ACT Basin among the States as provided in Article VII of the ACT Compact;

WHEREAS, the States of Alabama and Georgia have been negotiating, in good faith, the terms and conditions of an allocation formula since 1998;

WHEREAS, the States of Alabama and Georgia have reached substantial agreement, in principle, regarding most of the potential terms and conditions of an allocation formula;

WHEREAS, the ACT Compact and the Operating Guidelines of the ACT Commission require the input of the public through public hearings and written comments prior to the adoption by the ACT Commission of an initial allocation formula; and

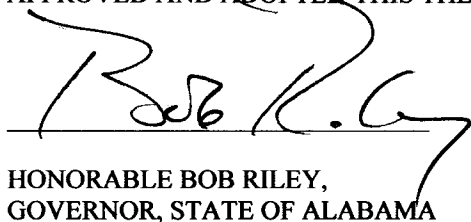
WHEREAS, the States of Alabama and Georgia desire to express and commemorate their preliminary agreement to certain concepts in advance of the issuance of a draft initial allocation formula for public comment.

NOW, THEREFORE, IN CONSIDERATION OF THE FOREGOING, the States of Alabama and Georgia hereby agree as follows:

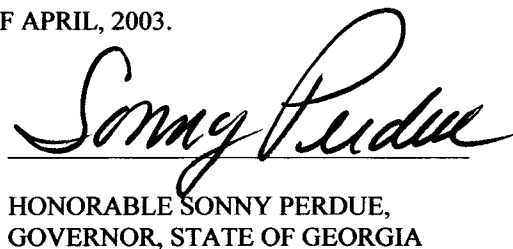
1. The draft ACT Allocation Formula proposed by the State of Alabama on or about July 6, 2001, is hereby withdrawn.
2. The principal concepts of an allocation formula to which the States of Alabama and Georgia desire to express preliminary agreement include the following:
 - a. **Duration.** The agreement will remain in place for a period of 30 years; expiring on December 31, 2033.
 - b. **Allocation of Storage in Federal Reservoirs for Water Supply.** The U.S. Army Corps of Engineers will enter into contracts through the year 2033 for sufficient storage to meet water supply needs in Georgia of 220 million gallons per day (mgd) from Lake Allatoona and 60 mgd from Carters Lake and will operate those reservoirs to protect such storage for water supply.
 - c. **Federal Reservoir Operations at Lake Allatoona and Carters Lake and Reregulation Dam.** Weekly average minimum flow requirement of 1,500 cfs measured at USGS Gage # 02397000, Coosa River near Rome, Georgia (Mayo's Bar) with a 1,000 cfs daily minimum flow requirement, based upon specific criteria for the operation of the Lake Allatoona and Carters Lake to ensure that all authorized project purposes are supported while protecting elevations of those reservoirs.
 - d. **Water Resource Management.** Provisions regarding the development of new reservoirs and new water withdrawals; specifically establishing equitable minimum in-stream flow protections in both Alabama and Georgia based on monthly 7Q10.
 - e. **West Georgia Regional Reservoir.** Construction of West Georgia Regional Reservoir will be subject to certain conditions and limitations designed to protect downstream flows and timing of such flows.
 - f. **Interbasin Transfers.** Interbasin transfers in the ACT Basin in Alabama and Georgia are proposed to be limited to 75 mgd annually (within each State) through the year 2009, 90 mgd annually through the year 2019, and 100 mgd annually through the year 2033.

- g. **Drought Planning.** There will be an interim Drought Plan to address short-term drought condition while mandating development of a more comprehensive Drought Plan within two years, while encouraging interstate cooperation and coordination of drought response and management approaches to provide a more basinwide focus to drought events.
 - h. **Organizational Structure.** ACT Commission must maintain full executive and oversight authority as established in the ACT Compact. Suggests an ACT Committee appointed by the ACT Commission to oversee day to day aspects of the agreement, including:
 - i. Implementation and planning for the future;
 - ii. Monitoring of basin conditions; and
 - iii. Providing support for funding and cooperation among federal, state and other entities to enhance programs and projects.
 - i. **Scientific Advisory Panel.**
 - i. Nine members consisting of three appointed by each state and three by the Federal Commissioner.
 - ii. Charged with reviewing conditions annually in the ACT Basin and recommending changes to monitoring and/or basin management programs.
 - j. **Monitoring and Reporting.** The ACT Committee is required to establish a publicly accessible database of all pertinent basin information to include reservoir elevation and storage use, streamflow, meteorological, water quality and other data.
 - k. **Adaptive Management.** Annual review of basin performance indicators by Scientific Advisory Panel. On the 10th and 20th anniversary of the agreement, an assessment of Basin conditions is required to review the implementation and effectiveness of this Agreement on the ACT Basin as a whole. Provides for the ability to revisit aspects of the formula if conditions exist outside of the planning horizon.
 - l. **Suspension.** Performance of the ACT formula can be suspended if its terms are deemed invalid, if the computer modeling upon which Alabama and Georgia have relied is erroneous, or if implementation of the formula as written would violate federal law.
3. The States of Alabama and Georgia commit to work diligently to prepare a draft initial allocation formula agreement that incorporates the above concepts and such other terms upon which the States agree, and that can be issued no later than May 1, 2003 by the ACT Commission for public comment in accordance with the ACT Compact and the ACT Commission Operating Guidelines. Upon completion of the draft initial allocation formula, the ACT River Basin Commission Secretary shall provide copies of such draft initial allocation formula to the public, shall provide notice of a public comment period on the draft initial allocation formula, and shall establish dates for public hearings on the draft initial allocation formula in accordance with the ACT Commission Operating Guidelines.
4. To facilitate the public review and comment on the potential terms and conditions set forth above, the consideration by the State Commissioners of the public input regarding such terms and conditions, to accommodate the development of and public review of and public hearings for a formal allocation formula, and to accommodate the review of any adopted allocation formula by the Federal Commissioner, the State Commissioners hereby extend the deadline for the ACT Compact to July 31, 2004.

APPROVED AND ADOPTED THIS THE 21ST DAY OF APRIL, 2003.



HONORABLE BOB RILEY,
GOVERNOR, STATE OF ALABAMA



HONORABLE SONNY PERDUE,
GOVERNOR, STATE OF GEORGIA